

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Sandra K. Rudolph and
David Rudolph,

Case No. _____

NOTICE OF REMOVAL

Plaintiffs,

v.

Walmart Inc.,

Defendant.

Defendant Walmart Inc. (hereinafter “Walmart”), by and through its undersigned counsel, as and for its Notice of Removal of an action venued in the Third Judicial District Court, Winona County, Minnesota to the United States District Court, District of Minnesota, states:

REMOVAL IS TIMELY

1. On December 27, 2021, through service of a Summons and Complaint, Plaintiffs Sandra K. Rudolph and David Rudolph (“Plaintiffs”) commenced an action against Walmart, in the Third Judicial District Court, Winona County, Minnesota. A true and correct copy of the Summons and Complaint is attached as Exhibit 1.

2. This Notice of Removal is therefore timely pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty (30) days of the date that Walmart was served with the Summons and Complaint.

REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION

The Amount in Controversy Exceeds \$75,000

3. In the Complaint, Plaintiff Sandra K. Rudolph alleges she has been damaged “in an amount greater than Fifty Thousand Dollars (\$50,000.00).” (Ex. 1, Compl.)

4. Plaintiff alleges she has been “been caused to expend money for the medical care and treatment of her injuries, and in the future will be required to expend sums of money for medical treatment of her injuries.” (Ex. 1, Compl., ¶ 9.)

5. In an email to Walmart on January 5, 2021, Plaintiff David Rudolph claimed that Sandra Rudolph “fractured her patella,” “suffered a fracture to the head of her radius bone,” and “was put in a leg immobilizer and sling.” (Ex. 2, Email.)

6. Upon information and belief, Plaintiff is claiming damages exceeding \$75,000.

The State Court Action Is Between Citizens of Different States

7. As alleged, Plaintiffs are Wisconsin residents. (Ex. 1, Compl., ¶ 1.)

8. Walmart is a Delaware corporation with its principal place of business located in Arkansas.

Diversity Jurisdiction Exists

9. As set forth in Paragraphs 5 and 6 above, this Court has diversity jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1332, and the action that Plaintiffs served in State Court is properly removable under 28 U.S.C. § 1441.

DEFENDANT HAS COMPLIED WITH THE REMOVAL PROCEDURES

10. As required by 28 U.S.C. § 1446(a), Walmart has attached as Exhibit 1 to this Notice of Removal a copy of all process, pleadings and orders served upon it relating to the State Court action.

11. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be served upon Plaintiffs, by and through their counsel of record, and with the Clerk of the Third Judicial District Court, Winona County, Minnesota, the State Court under which Plaintiffs initially commenced an action against Walmart.

DEFENDANT PRESERVES ALL DEFENSES

12. The Answer of Walmart or other response to the Complaint was not due prior to filing this Notice of Removal. By filing this Notice of Removal, Walmart does not waive any defense or counterclaim that may be available to it including jurisdictional defenses. As required under Fed. R. Civ. P. 81(c)(2), Walmart will respond to the Complaint within the time

set forth therein, unless an extension of the deadline is properly obtained pursuant this Court's approval.

WHEREFORE, Walmart respectfully removes the above-referenced cause of action from the Third Judicial District Court, Winona County, Minnesota to the United States District Court of Minnesota, submits that no further proceedings be had in Minnesota State Court, and requests such other and further relief as is necessary and proper.

Dated: January 18, 2022

s/ Angela Beranek Brandt

Angela Beranek Brandt (#0293143)

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